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December 16, 2005

VIA OVERNIGHT DELIVERY

The Honorable Ronald L. Ellis
United States Magistrate Judge
United States Courthouse
500 Pearl Street, Room 1970
New York, NY 10007

DEC 19 2005

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Re: Merit Capital Group, LLC v. Trio Industries Management, LLC, et al.
Case No. 04 CIV 7690 (RCC)

Dear Judge Ellis:

My firm represents plaintiff Merit Capital Group, LLC and third-party defendants Harvey Bloch and Alfred Salazar ("plaintiffs"). On behalf of all parties, I am writing to respectfully request, pursuant to Rule 1(E) of Your Honor's Individual Practices, that the parties' time to complete the depositions of defendants/third-party plaintiffs ("defendants"), currently set for December 30, 2005, be extended to and including January 10, 2006.

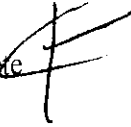
After settlement negotiations between the parties, which somewhat delayed the commencement of depositions in this matter, Mr. Bloch and Mr. Salazar, on behalf of plaintiffs, appeared for deposition yesterday and today, December 15 and 16. Defendants Evan Daniels and Robert Gyemant have not yet appeared for deposition.

Since defendants reside in Texas, and since the holidays are quickly approaching, their counsel was only able to propose a few dates for defendants' depositions (mostly, for the beginning of this week). I had numerous depositions and court appearances scheduled for those proposed dates – for example, I defended four depositions in different matters this week alone. Defendants' counsel has stated that his clients are available to fly to New York City and appear for deposition on January 9 and 10 – which are firm dates – and that they will be able to obtain cheaper airplane ticket prices for these dates as well (which is important, according to defendants' attorney).

Counsel for all parties have conferred and jointly request that the current deposition deadline be extended until January 10, 2006. Although all parties wish to move this case forward (particularly my client, the plaintiff), and although the parties have made four prior applications for similar relief (all requested in good faith), the parties respectfully request – sufficiently in advance of the current deposition deadline, so that defendants can make appropriate flight and hotel arrangements – that the current application be granted. Plaintiffs will suffer substantial prejudice without the requested relief, since they appeared for deposition but defendants have not yet appeared. I am confident that with plaintiffs' depositions already complete, the parties will complete defendants' depositions on January 9 and 10, with the Court's permission.

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For the reasons stated above, the parties respectfully request that the deadline to complete defendants' depositions be extended to January 10, 2006. 

Your Honor's attention and consideration of this matter is greatly appreciated.

Respectfully submitted,

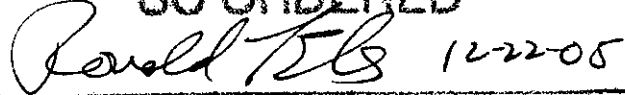


Marc R. Rosen

cc: Imtiaz A. Siddiqui, Esq. (via overnight delivery)

No further extensions

SO ORDERED



MAGISTRATE JUDGE RONALD L. ELLIS